

provided with timely section 204(h) notice. Accordingly, the amendment will become effective in accordance with its terms with respect to those participants and alternate payees.

Q-13: Will a plan be considered to have complied with section 204(h) of ERISA if the plan administrator provides section 204(h) notice to all but a de minimis percentage of participants and alternate payees to whom section 204(h) notice must be provided?

A-13: The plan will be considered to have complied with section 204(h) of ERISA and the amendment will become effective in accordance with its terms with respect to all parties to whom section 204(h) notice was required to be provided (including those who did not receive notice prior to discovery of the omission), if the plan administrator—

(a) Has made a good faith effort to comply with the requirements of section 204(h);

(b) Has provided section 204(h) notice to each employee organization that represents any participant to whom section 204(h) notice is required to be provided;

(c) Has failed to provide section 204(h) notice to no more than a de minimis percentage of participants and alternate payees to whom section 204(h) notice is required to be provided; and

(d) Provides section 204(h) notice to those participants and alternate payees promptly upon discovering the oversight.

Q-14: How does section 204(h) of ERISA apply to a plan that is terminated in accordance with title IV of ERISA?

A-14: (a) *On and after termination date.* Notwithstanding paragraph (b) of this Q&A-14 or any other provisions of this section, a plan that is terminated in accordance with title IV of ERISA is deemed to have satisfied section 204(h) of ERISA not later than the termination date (or date of termination, as applicable) established under section 4048 of ERISA. Accordingly, section 204(h) would not require that any additional benefits accrue after such date.

(b) *Amendment effective before termination date.* An amendment that is effective before the termination date (or date of termination, as applicable) established under section 4048 of ERISA is subject to section 204(h). Accordingly, if such amendment provides for a significant reduction in the rate of future benefit accrual, the plan administrator must provide section 204(h) notice (either separately or with or as part of the notice of intent to terminate) with respect to the amendment. However, if a plan is not amended to reduce significantly the rate

of future benefit accrual before the termination date (for example, the plan continues existing benefit accruals until the termination date), section 204(h) notice is not required.

Q-15: When does section 204(h) of ERISA become effective?

A-15: (a) *Statutory effective date.* With respect to defined benefit plans, section 204(h) of ERISA generally applies to plan amendments adopted on or after January 1, 1986. With respect to individual account plans, section 204(h) applies to plan amendments adopted on or after October 22, 1986.

(b) *Regulatory effective date.* This section applies to amendments adopted on or after December 15, 1995, and amendments effective by their terms on or after January 2, 1996.

## **PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

Par. 6. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 7. In § 602.101, paragraph (c) is amended by adding to the table in numerical order the entry “1.411(d)-6T \* \* \*.1545-1477”.

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

Approved: December 5, 1995.

Leslie Samuels,

*Assistant Secretary of the Treasury.*

[FR Doc. 95-30416 Filed 12-12-95; 1:23 pm]

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## **PENSION BENEFIT GUARANTY CORPORATION**

### **29 CFR Parts 2621 and 2627**

#### **Limitation on Guaranteed Benefits in Single-Employer Plans; Disclosure to Participants**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule amends Appendix A to the Limitation on Guaranteed Benefits regulation of the Pension Benefit Guaranty Corporation (“PBGC”) by adding the maximum guaranteeable pension benefit that may be paid by the PBGC with respect to a plan participant in a single-employer pension plan that terminates in 1996. The maximum guaranteeable benefit is computed in accordance with the formula in section 4022(b)(3) of the Employee Retirement Income Security Act of 1974, which provides that the maximum

guaranteeable benefit is based on the contribution and benefit base determined under section 230 of the Social Security Act. The latter number is adjusted annually, and that adjustment automatically changes the dollar amount of the maximum guaranteeable benefit paid by PBGC. The effect of this amendment is to advise plan participants and beneficiaries of the increased maximum guaranteeable benefit for 1996. This rule also amends Appendix B to the PBGC’s Disclosure to Participants regulation by adding information on 1996 maximum guaranteed benefit amounts. Plan administrators may, subject to the requirements of that regulation, include this information in participant notices.

**EFFECTIVE DATE:** January 1, 1996.

#### **FOR FURTHER INFORMATION CONTACT:**

Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024 (202-326-4179 for TTY and TDD). (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:** Section 4022(b) of the Employee Retirement Income Security Act of 1974, as amended, (“ERISA”) provides for certain limitations on benefits guaranteed by the Pension Benefit Guaranty Corporation (“PBGC”) in terminating single-employer pension plans covered under Title IV of ERISA. One of the limitations set forth in section 4022(b)(3) is a dollar ceiling on the amount of the monthly benefit that may be paid to a plan participant by the PBGC. Subparagraph (B) of section 4022(b)(3) provides that the amount of monthly benefit payable in the form of a life annuity beginning at age 65 shall not exceed “\$750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974 [\$13,200]”. This formula is also set forth in § 2621.3(a)(2) of the PBGC’s regulation entitled Limitation on Guaranteed Benefits in Single-Employer Plans (29 CFR Part 2621).

Section 230(d) of the Social Security Act (42 U.S.C. 430(d)) provides special rules for determining the contribution and benefit base for purposes of section 4022(b)(3)(B). Each year the Social Security Administration determines, and notifies the PBGC of, the contribution and benefit base to be used by the PBGC under these provisions.

The PBGC has been notified by the Social Security Administration that, under section 230 of the Social Security Act, \$46,500 is the contribution and benefit base that is to be used to calculate the PBGC maximum guaranteeable benefit for 1996. Accordingly, the formula under section 4022(b)(3)(B) of ERISA and 29 CFR § 2621.3(a)(2) is: \$750 multiplied by \$46,500/\$13,200. Thus, the maximum monthly benefit guaranteeable by the PBGC in 1996 is \$2,642.05 per month in the form of a life annuity beginning at age 65. If a benefit is payable in a different form or begins at a different age, the maximum guaranteeable amount will be the actuarial equivalent of \$2,642.05 per month.

Appendix A to part 2621 lists the maximum guaranteeable benefit payable by the PBGC to participants in single-employer plans that have terminated in each year from 1974 through 1995. This amendment updates appendix A for plans that terminate in 1996.

Section 4011 of ERISA requires plan administrators of certain underfunded plans to provide notice to plan participants and beneficiaries of the plan's funding status and the limits of the PBGC's guarantee. The PBGC's Disclosure to Participants regulation (part 2627) implements the statutory notice requirement. This rule amends Appendix B to the PBGC's Disclosure to Participants regulation by adding information on 1996 maximum guaranteed benefit amounts. Plan administrators may, subject to the requirements of that regulation, include this information in participant notices.

Because the maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of ERISA, and these amendments make no change in its method of calculation but simply list 1996 maximum guaranteeable benefit amounts for the public's knowledge, general notice of proposed rulemaking is not required. Moreover, because the 1996 maximum guaranteeable benefit is effective, under the statute, at the time that the Social Security contribution and benefit base is effective, *i.e.*, January 1, 1996, and is not dependent on the issuance of this regulation, the PBGC finds that good cause exists for making these amendments effective less than 30 days after publication (5 U.S.C. 553).

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Parts 2621 and 2627

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, parts 2621 and 2627 of subchapter C, chapter XXVI, title 29, Code of Federal Regulations are hereby amended as follows:

## PART 2621—LIMITATION ON GUARANTEED BENEFITS IN SINGLE-EMPLOYER PLANS

1. The authority citation for Part 2621 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b.

2. Appendix A to part 2621 is amended by adding a new entry to read as follows. The introductory text is reproduced for the convenience of the reader and remains unchanged.

### Appendix A to Part 2621—Maximum Guaranteeable Monthly Benefit

The following table lists by year the maximum guaranteeable monthly benefit payable in the form of a life annuity commencing at age 65 as described by § 2621.3(a)(2) to a participant in a plan that terminated in that year:

Year	Maximum guaranteeable monthly benefit
* * *	* * *
1996 .....	2,642.05

## PART 2627—DISCLOSURE TO PARTICIPANTS

3. The authority citation for Part 2627 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1311.

4. Appendix B to part 2627 is amended by adding a new entry to read as follows. The introductory text is reproduced for the convenience of the reader and remains unchanged.

Appendix B to Part 2627—Table of Maximum Guaranteed Benefits

If a plan terminates in—	The maximum guaranteed benefit for an individual starting to receive benefits at the age listed below is the amount (monthly or annual) listed below:							
	Age 65		Age 62		Age 60		Age 55	
	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual
1996 .....	\$2,642.05	\$31,704.60	\$2,087.22	\$25,046.64	\$1,717.33	\$20,607.96	\$1,188.92	\$14,267.04

Issued at Washington, DC this 11th day of December, 1995.

Martin Slate,

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 95-30497 Filed 12-14-95; 8:45 am]

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## 29 CFR Part 2619

### Valuation of Plan Benefits in Single-Employer Plans; Expected Retirement Age

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR Part

2619) by adding a new Table I-96 to appendix D. Table I-96 applies to any plan being terminated either in a distress termination or involuntarily by the PBGC with a valuation date falling in 1996, and is used to determine expected retirement ages for plan participants. This table is needed in order to compute the value of early retirement benefits and, thus, the total value of benefits under the plan.

**EFFECTIVE DATE:** January 1, 1996.